Before the Administrative Hearing Commission State of Missouri



RYAN M. MILLER,)	
Petitioner,)	
vs.)	No. 14-1513 PO
DIRECTOR OF DEPARTMENT OF PUBLIC SAFETY,)	
Respondent.)	
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DECISION

We find that cause exists to deny Ryan M. Miller entrance into a basic training academy because he committed a criminal offense.

Procedure

On September 12, 2014, Miller filed a complaint appealing the Director of the Department of Public Safety's ("Director") decision to deny him entrance into a basic training academy. The Director answered on October 7, 2014.

On November 17, 2014, the Director filed a motion for summary decision. We gave Miller until December 3, 2014, to respond, but he did not respond. We may grant a motion for summary decision if a party establishes facts that entitle any party to a favorable decision and no party genuinely disputes such facts. Parties may establish facts, or raise a dispute as to such

¹1 CSR 15-3.446(6)(A). All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

facts, by admissible evidence.² The Director relies on certified copies of court records attached to his motion. The following facts are undisputed.

Findings of Fact

- 1. On December 18, 2010, in Pettis County, Missouri, Miller committed the crime of attempting to carry a concealed weapon (unlawful use of a weapon), a Class A misdemeanor, in violation of § 571.030 and § 564.011.³
- 2. Miller pled guilty to the charge on November 3, 2011 and was sentenced to 60 days in the Pettis County Jail.
 - 3. The Director denied Miller entrance into a basic training course on August 5, 2014.
 - 4. The letter of denial was mailed to Miller on August 18, 2014.

Conclusions of Law

We have jurisdiction over Miller's appeal.⁵ Miller has the burden of proving he is qualified to enter into a basic training course.⁶ The Director's answer provides notice of the facts and law at issue.⁷ The Director relies upon § 590.100, which provides:

1. The director shall have cause to deny any application for a peace officer license or entrance into a basic training course when the director has knowledge that would constitute cause to discipline the applicant if the applicant were licensed[;]

and § 590.080.1(2), which authorizes discipline of any peace officer who "[h]as committed any criminal offense, whether or not a criminal charge has been filed[.]" Section 556.016⁸ defines a criminal offense as follows:

² 1 CSR 15-3.446(6)(B).

³ RSMo 2000. Statutory references are to RSMo Supp. 2013 unless otherwise noted.

⁴ This allegation is contained in the 2nd paragraph of Miller's complaint. It is supported by an attached copy of the certified mail envelope and admitted by the Director in his answer.

⁵ Section 590.100.3.

⁶ Section 621.120, RSMo. 2000.

⁷ Ballew v. Ainsworth, 670 S.W.2d 94, 103 (Mo. App. E.D. 1984).

⁸RSMo 2000.

1. An offense defined by this code or by any other statute of this state, for which a sentence of death or imprisonment is authorized, constitutes a "**crime**". Crimes are classified as felonies and misdemeanors.

The crime of unlawful use of a weapon is set out in § 571.030, which provides:

- 1. A person commits the crime of unlawful use of weapons if he or she knowingly:
- (1) Carries concealed upon or about his or her person a knife, firearm, a blackjack or any other weapon readily capable of lethal use[.]

......*

8. Unlawful use of weapons is a class D felony[.]

Section 564.011 states:

1. A person is guilty of attempt to commit an offense when, with the purpose of committing the offense, he does any act which is a substantial step towards the commission of the offense. A "substantial step" is conduct which is strongly corroborative of the firmness of the actor's purpose to complete the commission of the offense.

......*

3. Unless otherwise provided, an attempt to commit an offense is a:

......*

(4) Class A misdemeanor if the offense attempted is a class D felony.

The Director has shown Miller committed a criminal offense, a fact he admitted in his complaint. We are bound by this record and by § 590.100.3, which bars us from considering the relative severity of the crime giving rise to the Director's denial or any alleged state of rehabilitation achieved by the applicant since its commission.

The undisputed facts show Miller was charged with and pled guilty to attempted unlawful use of a weapon by concealment in violation of § 571.030 and § 564.011, a Class A

misdemeanor. The Director has cause to deny him admission to a basic training academy pursuant to §§ 590.080.1(2) and 590.100.1.

Summary

We grant the Director's motion for summary decision and cancel the hearing. SO ORDERED on December 23, 2014.

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